

STATE OF IOWA REPORT, FINDINGS AND RECOMMENDATIONS OF THE FACT-FINDER

Between
Poweshiek County
Montezuma, Iowa

Issues: Wages, 2010 FY;
Insurance; Hours of Work and
Overtime; Shift Differential;
Comparability Groups;
Sheriffs Unit; Custodian Pay;
PERA 20.22(9), b., & c. Interpretations

and

Public Professional and Maintenance
Employees, Local 2003

Hearing Commenced and Closed: January 19, 2009

Issued: February 3, 2009

Fact-Finder: Edward D. D. Lalor

FINDINGS OF FACT AND RECOMMENDATION(S)

APPEARANCES

Employer

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Travis Solem, Dispatcher/Jailer and Bargaining Committee
Doug Kies, Deputy Sheriff and Bargaining Committee
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JURISDICTION

The County of Poweshiek, Iowa [the Employer or the County] and Public Professional and Maintenance Employees, Local 2003 [the Union or PPME or Local 2003] [or jointly the Parties] have been negotiating

for a new Collective Bargaining Agreement [effective July 1, 2009 through June 30, 2010-Fiscal Year 2010].

During the negotiations the Parties reached impasse on four items, which include several issues. The Parties have agreed to abide by the statutory impasse procedures as provided by Chapter 20.17-20.22 of the Code of Iowa, the Iowa Public Employment Relations Act [hereafter PERA]. With the assistance of Iowa Public Relations Board [hereafter PERB] the Parties selected the undersigned to serve as the Fact-Finder in this impasse [PERA Chapter 20.21].

On January 19, 2009, from 9:20 a.m. until 2:24 p.m. this Fact-Finder conducted the Fact-Finding hearing in the Court House at Montezuma, Iowa. This hearing was open to attendance by the public. At that time each of the Parties and the public were given full opportunity to present their evidence, information and arguments; to examine and cross examine witnesses; and to enter into the Fact-Finding record (hereafter the Record) all the information that they deemed appropriate on the impasse items.

This Report, Findings, and Recommendation of the Fact-Finder [Report] was placed in the U.S. mails on or before January 27, 2009 to PERB and the Parties.

DISCUSSION

1. EVIDENCE

The Parties presented substantial amounts of written evidence, information and oral testimony in support of their respective positions. There are one Joint exhibit [J1], thirty Union exhibits [U_] and thirty County exhibits [E_].

2. MATTERS CONSIDERED BY THE FACT-FINDER

The positions, arguments and evidence of the Parties are summarized very briefly whenever possible without detracting from their import. In the following analysis, it was not reasonable within the constraints of PERA to present elaborate recapitulations of the positions, supporting evidence and arguments of the Parties. Major exhibits or exhibits with summaries are usually cited below. However, **all details of the positions, arguments, and information and evidence of the Parties have been very carefully considered by this Fact-Finder.** No information nor evidence was presented from the public.

3. CRITERIA FOR FACT-FINDER'S FINDINGS AND RECOMMENDATIONS

In accordance with Iowa public sector arbitration and Fact-Finding principles, this Fact-Finder follows the statutory factors for Arbitrators in this Report.

The Code of Iowa, Sections 20.22(9) and 20.22(11)-(13), (PERA) states:

9. The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

- a.** Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
- b.** Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
- c.** The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
- d.** The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

11. A majority of the panel of arbitrators shall select within fifteen days after its first meeting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties, or the recommendations of the fact-finder on each impasse item.

12. The selections by the panel of arbitrators and items agreed upon by the public employer and the employee organization, shall be deemed to be the collective bargaining agreement between the parties.

13. **The determination of the panel of arbitrators shall be by majority vote and shall be final and binding subject to the provision of section 20.17, subsection 6.** The panel of arbitrators shall give written explanation for its selection and inform the parties of its decision. [C75, 77, 79, s20.22]
Referred to in par. 20.19. [Bold emphasis added.]

The parties often present evidence relating to only some of the above elements. When this occurs, this Fact-Finder then bases his decisions and findings on the evidence presented. He presumes that the parties had determined that there is no evidence on the other elements that would persuade this Fact-Finder to make different findings or recommendations.

The Code of Iowa, Section 20.17(6) states:

6. No collective bargaining agreement or arbitrators' decision shall be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending or budget or would substantially impair or limit the performance of any statutory duty by the public employer. A collective bargaining agreement or arbitrators' award may provide for benefits conditional upon specified funds to be obtained by the public employer, but the agreement shall provide either for automatic reduction of such conditional benefits or for additional bargaining if the funds are not obtained or if a lesser amount is obtained. [Bold and underlining emphasis added.]

4. BURDEN OF PERSUASION OR PROOF FOR CHANGES

In Iowa the well accepted general rule for Fact-Finding and Binding Arbitration [Interest Arbitration] is that the party who wants to change the salary structure or language of the current collective bargaining agreement has the burden of persuasion to prove that there have been substantial past problems (or probable future problems) with the old contract language, substantial change(s) in circumstances, special needs or other substantial reasons to change the current language of the contract. The party seeking changes must prove the need or reasons for change and that its proposed change(s) meets that need.

With sufficient evidence, this Fact-Finder in several instances in other matters has awarded or recommended changes, as proved.

5. IMPASSE ITEMS AND ISSUES

There are four impasse items [PERA Chapter 20.9] in this matter: Wages; Insurance; Shift Differential; and Hours.

6. DESCRIPTION OF THE EMPLOYER AND AREA EMPLOYERS

The County is located on the both sides of Highway I-80. It has a population of 19,033 persons. Its largest city is the City of Grinnell, which has a population of approximately 9,105 persons. The County

Seat is Montezuma, which has a population of approximately 1,457. [E5] The County is located approximately sixty miles and nearly equally distant from Des Moines and Iowa City, the nearest two large major population centers.

The major employers in the County are: Grinnell Mutual Reinsurance; Jeld-Wen doors and windows; Manatt's construction; Montezuma Manufacturing automotive metal supplier and Brownell's firearm accessories. The County also has a large agricultural base of farm land and corporate livestock operations. [U4]

7. THE EMPLOYER'S EMPLOYEES AND THEIR BARGAINING STATUS

The County employs approximately 137 people, including part-time and seasonal employees. Approximately 86 are full time.

Personnel policies and arrangements for the determination of pay levels for the County's employees vary considerably. [E 29-30] The approximate number of employees of the County by department, including department heads are:

- a. **Elected Officials and their administrative deputies** salary levels are determined through the Iowa Compensation Board process. Seventeen County employees are affected by this procedure. Five are elected officials and twelve are administrative deputies [Sheriff and Recorder Office]
- b. There are three Supervisors on the **Board of Supervisors**.
- c. **Assessor Office** has five employees.
- d. **County Attorney Office** has three employees.
- e. **Recorder Office** has three employees.
- f. **Treasurer Office** has nine employees.
- g. **Conservation Department employees'** salaries are set by the Poweshiek County Conservation Board. This affects 3 full time and 2 seasonal employees.
- h. The salary of the one employee of the **Veterans' Affairs Commission** is set by that commission.
- i. The **CPC** has five employees.
- j. **Sheriffs department** has twenty-five employees.
- k. **Secondary Roads** has twenty-seven employees.
- l. **Other unrepresented employees'** salaries are set by the Board of Supervisors. These 32 employees work administrative, confidential, custodian, or clerical duties.

There are two collective bargaining units:

- 1) 25 full time **Secondary Road** employees also are represented in a separate unit by PPME. (SR Unit). Nineteen are members of the Union by checkoff of their Union dues.

2) Sheriffs Department 25 full time deputies, dispatcher/jailers, etc. are represented by the Union. [E30; J1]. [Sheriffs Unit or the Unit].

The Sheriffs Department twenty-five employees include:

- 1) Sheriff
- 2) One Chief Deputy Sheriff (85% of Sheriff's salary)
- 3) Jail Administrator
- 4) Nine full-time Road Deputies; 2 part-time [70-85% based on years of service]
- 5) Nine full-time Dispatchers/Jailers; One part-time
- 6) One Clerical

Six Deputies and 7 Dispatchers/Jailers are members of the Union by checkoff of their Union dues.

The Road Deputies, Investigators, Civil and Jail Deputies are all classified on the salary schedule as Deputy Sheriff. [E29-30; J1]

8. BARGAINING HISTORY OF SHERIFFS UNIT

The Union was certified in Iowa Public Employment Relations Board Case No. 6521, certified representation dated September 19, 2002. The Unit certified is "all employees of the Poweshiek County Sheriffs Department including all Deputies (contract or otherwise), Dispatchers, Jailers, Jail Administrators and County Custodians and excludes the Sheriff, Chief Deputy, Office Deputy and Night Patrol Supervisor."

The first Collective Bargaining Agreement was decided through Fact-Finding and Interest Arbitration. It became effective on July 1, 2003 [2004 FY]. [J1; U1, 22-23] There have been no other Fact-Finder or Interest Arbitration decisions since then.

The Parties have **not** waived the March 15, 2009 deadline for completion of the Impasse procedures.

9. ECONOMIC CONDITION OF THE EMPLOYER

A. Economic Conditions [Poweshiek co primarily done]

All major private employers in the County are laying off employees or reducing their hours of work.

Due to the deepest recession since at least 1982, possibly 1973-74, there is a very large budget shortfall at the State level from the resulting decreases in income and other collected taxes. [E27] This probably will affect monies allocated to Counties from the State. At the time of this hearing, these decisions have not been made. This Fact-Finder relies only on the facts in the Record.

There is very little turnover of County employees. Their compensation makes them among the top jobs in County. Raising taxes is not a feasible alternative in the current economic environment. Rather the County needs to plan for an expected decrease in property values. Since property taxes are the County's primary source of revenue for operations, there will be a resulting decrease in County tax revenues.

The currently unsolvable big underlying issues are impact quantity and timing to the County. There is a certain lag factor in the impact to the County from the current economic downturn. Some will come from reduced County tax and fee revenues; and, some will result from changes, if any, to county aid, payments, etc. from the State.

The average number of foreclosures in the County from 1992 has been approximately 12 annually. In 2008 there were thirty-three. From January 1, to January 19, 2009 there have been fifteen. [E1]

B. 2010 FY Budget and Other County Financials

For the County, the Reserve Carryovers were \$6,169,621 [FY 2008, June 30, 2008] and \$6,071,478 [FY 2007].

The County carried surplus funds over into 2009 FY of 52% of total expenditures. The State of Iowa has defined excessive as anything in excess of 25%.[U4] In the current recession, this level of surplus funds is not excessive for the County. The County is in excellent fiscal condition with very substantial reserves, within which to absorb the costs of these Fact-Finding Recommendations.

The County's taxable valuation grew steadily from 2006 FY at \$712.6 million to 2007 FY at \$716.1 million; and then rapidly to 2008 FY \$735.3 million, and finally to 2009 [current] FY \$795.4 million. [U5]

The General Basic Levy generates revenue for general County operations, for example, Sheriffs Department, courthouse, and elected officials. The County has kept this Levy at or near its legal limit [max \$3.50 per \$1,000 taxable valuation] in FY 2006 \$3.39872; FY 2007 \$3.38378; FY 2008 \$3.5000; and FY 2009 at \$3.44842. The General Supplemental Levy may be used for essential government purposes and has no levy limit. It may be used to pay health insurance. It was levied at \$2.1605 in FY 2008, and otherwise has not been levied in the current or past three FY.

The Rural Basic Levy provides revenue that is used for Secondary Road Department operations. The Rural Service Supplemental Levy may be used only to support certain rural services; and is sometimes used to support Sheriffs departments for providing law enforcement services for rural areas. [U5] The Road Use Tax Fund is collected from gasoline taxes and user fees. These revenues are used by the Secondary Roads Department.

Since 1995 there has been property tax/budget relief aid from the State of Iowa for Medicaid and Medicare costs. The State assumed some costs of mental health care funding, which had been an uncontrolled portion of county budgets.

The **Sheriffs Department** 2008 FY actual expenditures was approximately \$1.473million. [U27]

The County is in the process of building a new law enforcement center. The Record does not disclose the stage of this multi year process.

The Employer can afford all the increases recommended by this Fact-Finder. There was no claim nor evidence from the Employer that these amounts would be burdensome or beyond the Employer's ability to pay, except as discussed elsewhere in this Report. Considering the economy in the area, the Employer also wants to limit its expenses. The Employer is able to finance the economic adjustments recommended in this Report. This Fact-Finder's recommendation is within the power of the Employer to levy taxes and appropriate funds for the conduct of its operations. (See PERA Section 20.22(9) c. and d.)

10. COMPARABILITY GROUPS

A. The Union proposes the Parties seven of the eight historical comparability group members used [Benton, Iowa, Jasper, Mahaska, Marion, Marshall, and Tama, except for Keokuk County, and adds

Washington County [Eight Counties] immediately contiguous counties. The Union argues that Keokuk is not organized and therefore should be excluded.

B. The Employer proposes ten Counties including Washington and Keokuk Counties and Baron, Grundy, and Buchanan counties. [Ten Counties] It would exclude Jasper and Marshall because they are larger counties in population and close to Des Moines. It would include Baron (18,297), Grundy (12,341), and Buchanan (20,903) counties because they are closer in population than Marshall and Jasper.

C. The Fact-Finder determines that:

1. The Parties are agreed that Benton, Mahaska, Marion, Tama, and Washington Counties are part of any comparable group. These Counties are included within the Comparable Group.
2. Keokuk is an immediately adjacent county and while its population is smaller, and unorganized, there is no other evidence in this Record that proves that Keokuk should not be included in the Comparable Group.
3. Hardin, Grundy, and Buchanan counties are two counties away from Poweshiek and out of the labor market area for the County. There is little evidence in the Record of their economic or operational circumstances, that would prove their similarity to the County. There is no evidence of their operations, employment complement, or other characteristics that would require their inclusion in the Comparable Group. Therefore, these three counties are excluded from the Comparable Group.
4. Fact-Finder Stanley H. Michelstetter II and Interest Arbitrator Stanley T. Cobry in 2003 cases between the same Parties found that the Benton, Iowa, Jasper, Keokuk, Mahaska, Marion, Marshall and Tama , [eight first tier contiguous counties] were the comparability group for external comparisons, as the Union proposed in 2003. [U22-23]
5. Since the Parties are agreed that Washington county should be included within the Comparable Group and it is in the same labor market, and appears to share similar economic circumstances, it is included in the Comparable Group.
6. The primary purpose of comparable groups is to fulfill the requirements of PERA 20.22(9)b. However, comparable groups often also fulfill the requirements of PERA 20.22(9)c. and d.

7. The nine counties [Comparable Group or Nine Counties] is the most comparable group of those in this Record and should be used for wages and other comparability. These counties are Benton (population 26,243), Iowa (15,920), Jasper (37,706), Keokuk (11,352), Mahaska (22,303), Marion (32,425), Marshall (39,103), Tama (17,876), and Washington (21,314).

This group consists entirely of Iowa counties that share common tax resources and spending authority.

The number of these public employees is sufficient to allow for reasonable comparisons of wages, hours and conditions of employment during the long term. The employee jobs or positions are similar.

The County ranks sixth of nine in population among these counties.

8. PERA Sec. 20.22(9)b. mandates "Comparison of wages, hours, and conditions of employment of the involved public employees with other public employees doing comparable work,...". However, it also continues "**giving consideration to factors peculiar to the area and the classifications involved.**" This latter language separately or combined with 20.22(9) "panel of arbitrators shall consider, **in addition to any other relevant factors, ...** " appear to allow consideration of private sector employment or other area public sector employment in certain situations. For example, clerical skills and jobs might be very comparable. In many situations comparable jobs do not exist in private employment. There will be times when these comparisons support lower wages or benefits, and times when they will support higher wages and benefits. There appears to be no Iowa Supreme Court or PERB case or ruling in directly in point.

11. ITEM ONE- HOURS OF WORK

A. SHIFT TRADES

Union Proposal is to add a new section entitled Shift Trades.

Its **major rationale** are: 1)The provision does not cost the Employer overtime. 2)Employees gain some work shift flexibility to address off-duty needs. 3)Incorporates its own enforcement provision of 6 months for employees who do not follow agreed trades. 4) Mutual agreement of employees required. [U6-10]

County proposes that there be no change from the current Collective Bargaining Agreement [J1] [the Agreement].

Its **major rationale** are: 1)Union's proposal does not require management approval. 2)Only one of the comparable group has any shift trade contract provision. 3)There is no need for a provision in this subject area.

4)Union proposal is only thrown in for bargaining strategy. [E7-8]

FACT-FINDERS RECOMMENDATION:

Based on the entire Record for all the reasons stated in this Report, the **Fact-Finder recommends:**

A. Add a new section entitled Shift Trades to Article 13, Hours of Work and Overtime, to read as follows:

Shift Trades

Shift trades may be allowed when an employee has requested paid time off, e.g., compensatory time, vacation, etc., and the paid leave has been denied.

All employees within the same classification may elect to trade full shifts only [no partial shifts] anytime within the same time accounting period.

No trade shall result in overtime nor additional compensatory time, from exceeding the maximum number of hours worked in any accounting period nor working in excess of the normal work day or work schedule.

Prior to the beginning time of the first occurring traded shift, all trades must have the approval of the person(s) officially responsible for scheduling. All approvals shall include the Sheriff, or Sheriff's designee. Requests for shift trades shall not be denied unreasonably, provided there is proper notification.

All trades must be mutually agreed to by both employees, and documented by both of them on time sheets stating who the trade is with and dates of both sides of the trade.

If an employee fails to complete the trade for any reason, this employee shall be prohibited from trading shifts for six [6] months after the scheduled trade date, that was not completed.

This provision shall be implemented on a trial basis for the term of the Collective Bargaining Agreement.

B. 1)This provision has no out of pocket costs to the Employer, and can be accomplished with minimal administrative time. 2)The trial period shall allow both Parties to learn the effects, positively or negatively, on the operations of the Employer and prior use of paid time in these situations. 3)Employees shall receive some flexibility to take care of their off-duty needs, e.g. caring for relatives, family celebrations, etc. 4) Full shifts only are allowed to reduce the potential administrative costs to the Employer, and reduce time errors between employees and the Employer. 5)The changes that this Fact-Finder has made to the Union proposal have been to address some of the arguments made by the Employer at the hearing, and to include language changes that should eliminate, or at least reduce, grievances from the application of this provision. 6)Mutual agreement of the employees trading shifts is required. 7)The Union has tried for three bargaining cycles to obtain its provision. The Parties were close

to a letter of agreement, which included most of the elements of this recommendation. 8)Tama & Mahaska Counties among the comparables have some shift trade language. [U10] Some of that language has been used in this Fact-Finders recommendation. 9)This recommendation fills the Employer's need to have more compensation time used.

There is no evidence of the Comparable Group's employer policies in this subject area, which are not included in collective agreements.

12. ITEM TWO- SHIFT DIFFERENTIAL

Union Proposal is to add a new section entitled Shift Differential to Article 13, Hours of Work and Overtime to read:

Any employee on a shift which does not have the same start and end times each work day shall receive a shift differential of fifty cents (\$.50) per hour for all hours of work.

Its **major rationale** are: 1)This proposal refers only to a swing/ rotating [swing shift] shift. 2)There was a past grievance when this swing shift was added in 2005. As a result of mediation with a member of PERB, a settlement Agreement was reached in December, 2005 that created one swing shift position. This position was voluntarily added to the 2006-08 collective bargaining agreement [2006 Agreement]. No compensation was added to the 2006 Agreement. 3)Rotation of working midnight and day shifts places extra stress on employees physically. 4)Shift differential is a recognized method of not only compensating the affected employee, but in attracting bidders on an unattractive shift. 5) There presently is no shift differential for any shift in any job classification. 6)The Union's comparability group have \$.10 to \$.75 additional pay differentials for some shifts. [U10-12]

County position is that there be no addition of shift differential to the Agreement. [J1]

Its **major rationale** are: 1)County believes this item is used for bargaining strategy reason only. 2) No alleged comparable groups have swing shift differential pay. 3) There has been no effort to fill this position. [E7-8]

FACT-FINDERS RECOMMENDATION:

Based on the entire Record for all the reasons stated in this Report, the **Fact-Finder recommends** that there be **no addition of shift differential to the Agreement. [J1]**

1)This swing shift position was created for a particular person [Jailer/Dispatcher], who has since resigned from the County's employment. 2)There has been no effort by the Employer to fill this position. 3)Once the new law enforcement center is operational, the Sheriff plans to access whether or not this position is needed. Currently, there is no operational need for a swing shift. 4)There is little **documentary evidence** of the collective agreements themselves or employer policies for any of the alleged comparable groups. The Party's representatives presented contradictory statements or summaries, which are found not sufficiently reliable in the circumstances here. 5)**Comparable Group Counties:** Marion has shift hourly premiums only for Dispatchers and Jailers of fifteen [\$.15] hours worked 3:00 pm to 11:00 pm and twenty-five cents [\$.25] for hours worked 11:00 pm to 7:00 am. [U27, 12; E7].; Benton has [\$.50/hour] night and [\$.75] weekend shifts premiums [E7; U28,12]; Tama Dispatchers receive a \$.15 hourly additional shift [premium] for shifts that start after 4:00 pm or end before 8:00 am. Tama Deputy Sheriffs are not organized. [U29, 12]; Iowa County has a ten cents [\$.10] hourly shift premium for those assigned to work third shift only for Deputy sheriffs, communication operator, and jailers. [U30, 12; E7]; and Marshall County, has a \$.20 hourly premium for the 4pm to 2am shift, but not the 5am to 3pm swing shifts worked by jailers who swing shift these two shifts. [U26] There is no evidence that other collective agreements or employer policies among the Comparable Group have any shift differentials for swing

shifts, or otherwise, or even have swing shifts. 6)Due to the physical toll on employees and reduced efficiencies, law enforcement has been reducing or eliminating swing shifts, especially in smaller more rural departments, as in this case. 7)After the new law enforcement center is operational, if they wish, the Parties should then address shift differentials directly in future negotiations. 8)There is insufficient evidence in this Record to prove any current need for the Union's proposal.

13. ITEM Three: WAGES

A. Union Proposes:

Article 22, Job Classifications & Straight Time Hourly Wage Rates

A. Increase all hourly wage rates in Exhibit A (07/01/08) for the Dispatcher/Jailer job classification by the amount of sixty cents (\$.60) effective July 1, 2009.

B. Add the job classification of Custodian to Exhibit A with a wage rate of \$15.00 per hour, plus any negotiated increase for fiscal year 2010.

C. Make no change in the Deputy Sheriffs percentage wage schedule.

B. Its major rationale are: 1)The Custodian's proposed wage rate is based on wage rates that had been made to Unit employees since this person was hired. 2)No structural changes should be made to Deputy wage rates. The Unit employees should receive no less percentage wage increase than other employees.

C. Employer Proposes:

1. No change to current salaries or hourly wage rates, except eliminate the method of calculating deputy salaries by taking a percentage of the Sheriff's salary. Convert current percentage amounts to annual salaries.

2. Add job classification of Custodian to Appendix A with a wage rate of \$14.31 plus the same percentage increase recommended for other Sheriffs department employees.

D. Its major rationale are: 1)Salaries paid to Poweshiek County deputies is superior to other counties. 2)Method of paying deputies as a percentage of Sheriff's salary is not common and should be changed. Only two other counties pay deputies a percentage of the Sheriff's salary-Iowa and Keokuk. Keokuk is not organized. 3)Poweshiek has the best longevity pay schedule. 4)Iowa Statute, Chapter 331.907 Compensation Board allows the Compensation Board to make pay decisions for the counties, and deprives the Poweshiek County of their Chapter 20 rights.

FACT-FINDERS RECOMMENDATION:

A. Fact-Finder Recommendation:

Based on the entire Record for all the reasons stated in this Report, the **Fact-Finder recommends** that:

1. There be no change to the new Agreement concerning the Deputy percentage wage schedule.
2. Add the job classification of Custodian to Appendix A with a wage rate of \$14.67 [\$14.31 plus 2.5% increase for 2010FY].
3. Increase the wage rates of the job classification Dispatcher/Jailers by 2.5% for FY2010.

B. Compensation Board Recommended Increases

1. The Iowa Board of Compensation process begins with a Board of citizens selected by the various elected officials. This **Compensation Board meets to make a recommendation for salary increases** for the elected officials each year. See Iowa Statute, Chapter 331.907 Compensation schedule-preparation and adoption. [Compensation Board Stat.]

Pursuant to section 2 of the Compensation Board Stat., then at the budget hearing the **County Board of Supervisors may either accept the recommendation or roll back each recommended increase by an equal percentage.** In the Sheriffs Department, Administrative deputies receive a percentage of the salary of elected officials. Salaries of approximately fourteen Sheriffs Department persons (five positions) are determined by this procedure.

For the fiscal year which begins July 1, 2009 and ends on June 30, 2010[2010 FY], the Compensation Board recommended the a 2.5% increases of base salaries for the County's elected officials and their deputies.

For FY 09 the County Board approved a 3.5% increase in these elected officials salaries. The FY09 salaries are: Board of Supervisors [\$30,003]; Sheriff [\$59,177]; Auditor [\$46,639]; Recorder [\$45,744]; Treasurer [\$46,639]; and County Attorney [\$47,945]. [U27]

2. The Poweshiek County Board voted to approve 2.5% base wage increases for FY2010 for all elected officials and related, including the Sheriff. [U27]

However, the Poweshiek County Board of Supervisors [County Board] voted to freeze the Supervisors' salaries [their own] for 2010 FY. [U27]

C. The County Board also has apparently approved a 2.5% wage increase for all full-time unrepresented employees. Fact-Finders and Arbitrators under Chapter 20 should not make determinations or recommendations that give organized employees less than nonunion employees; which would discourage unionization by employees. Otherwise, a basic purpose of Chapter 20, which is to allow employees to organize, if they wish, is thwarted.

D. PERA Sec. 20.22(9)c also requires that the arbitrator consider the "interests and welfare of the public". When the wage increases of the elected officials, who directly supervise unit employees are substantially more than wage increases or benefits offered to unit employees, then the public interest requires that Arbitrators and Fact-Finders give little credence to managements' arguments of economic necessity when management attempts to reduce or restrict the unit employees' wages or benefits (while at the same time supporting more substantial increases in the management, supervisors, or unrepresented employees wages or benefits).

The Parties' costing indicates that overtime pay for the Unit is not a factor that substantially reduces these pay differentials. There is one Deputy, who earned more than the Sheriff in one recent year, due to unusual and very substantial overtime.

E. Before a Fact-Finder recommends a wage freeze, as is proposed by the County for Deputies, a minimum

requirement is that the Employer has a wage freeze for all of its employees or that the total compensation of the particular group is considerably higher than for comparable group employee, and is not justified by the job duties of the group to be frozen. Neither reason applies here.

F. The County Secondary Roads unit had a Fact-Finding hearing on January 20, 2009. A copy of that Report, if any has not been placed in this Record.

G. Custodian

The certification for the Unit includes the Custodian classification. [E18] In 2005FY the County Board contracted out [privatized] the custodian work and eliminated the County employee. In the 2006FY collective bargaining agreement, the Parties removed the wage rate of the Custodian. No action has been taken to amend the Unit certification. In 2007 or 2008FY, the County abandoned the outsourcing and hired a Custodian. [E18] Both Parties stipulated that a Custodian wage rate be added to the 2010FY Agreement.

The Custodian wage rate in the 2005FY Agreement was \$10.81. With the same increases applied to the Unit employees since then, this rate would have been \$13.81 for the 2009FY Agreement [the Agreement]. [J1]

The current custodian was hired at \$12.81 and received a \$1.00 wage increase before February, 2008 for a wage rate of \$13.81. This employee received a \$.50 increase on July 1, 2008 to a current wage rate to \$14.31 hourly. Among the Comparable Group, only Benton County's collective bargaining agreement lists a custodial employee. It has a wage rate range of \$11.62 to \$15.36. [U19]

H. External Settlements

No county among the Comparable Group nor claimed comparables has settled a FY2010 collective agreement.

Six counties in Iowa had settled on January 19. Their settlements ranged from 1.6%-3.0% wage increases. One was 3.0% [Winnebago] ; three [Creston; Decatur; Webster] were 2.5%; one [Ida] was 2.0%; and Osceola was 1.6-2.2%. [E19]

I. The **Dispatcher/Jailer** pay range is within a reasonable range for the comparables, and should maintain its relative position among comparables with the recommended increase.

J. **Costs of above wage increases are: \$10,600 or less for Deputies; \$8,112 or less for Dispatchers and Jailers and Custodian. [E17;U25] The exact placement of all Unit employees on the pay schedules is not in this Record; and so it is not possible to more accurately determine the total costs of these wage increases.**

K. **Colas and other wage comparisons.** There is no evidence of cost of living changes.

L. **A party that proposes to change an existing benefit first must prove that the circumstances have changed and that a modification of the benefit is necessary. Secondly, it must prove that its offer reasonably fulfills the needed change. Alternatively, the party may prove that it has made an offer as part of the negotiations of an equivalent quid pro quo.**

There is no evidence in this Record of where all Unit employees place on the wage schedules. The high comparative wages for Deputies proves that there is need for some changes. [E15A] However, there is insufficient evidence for a Fact-Finder to formulate a recommendation that would meet the needs of both Parties here. There is little evidence of the comparative sizes of the operations, jails, emergency calls, etc. handled by each of the Comparable Group. There is no evidence of the Sheriff's salaries in the Comparable Group and the resulting percentages of Sheriffs' salaries paid to Deputies, whatever method is used. The County's proposal does not reasonably fulfill the needed changes here. The Deputies percentage rates are very high for the Comparable Group. Normally in Sheriff's departments these percentages for top Deputy pay are in the range of 80-85% of the Sheriff's salary. However, the system of percentages of Sheriff's salary is sound under the Chapter 20 PERA, because it recognizes the team nature of law enforcement, and the interrelationship of the Sheriff's work and the Unit work. This is a situation that does not exist in most bargaining units. See above Discussion, esp. B,C&D this Item. The difficult problem is arriving at percentages that are reasonable for all parties. Here, **this needs here to be first approached in collective bargaining, and should not be recommended or awarded by a Fact-Finder or Arbitrator without substantial bargaining between the Parties. The Employer's failure to freeze salaries and wages for all non bargaining employees also lends little credence to its position.**

Here the **Parties in their future bargaining might consider less drastic proposals for changes in the Deputies wages eg Add years 4-84% year 5-85% and change year 3 to 83% to the wage schedule of**

Deputies, and red circle all wages of current 3-5 year Deputies, so that current Deputies would not have their wages decreased. Tradeoffs between this and insurance might be made. This is not a recommendation, only a suggestion that might open a needed dialogue and bargaining between the Parties.

14. ITEM Four: INSURANCE

A. Union Proposes:

Article 14, Insurance

A. Change the second sentence in the third paragraph to read:

With respect to dependent insurance premiums, employees will pay the first \$175 of dependent coverage and Poweshiek County shall pay the remainder.

B. Add under In-Network minimum benefits the following:

Office Visits 20% by employee/80% by insurer with deductible waived.

Office visit co-payments apply to out-of-pocket maximum

B. Its major rationale are: 1)Poweshiek Secondary Roads unit employees pay \$175 for dependent coverage.

2)Comparables show that Poweshiek has high dependent insurance premiums. 3)State wide ISAC insurance pool should be considered as an alternative, due to its lower costs and better benefit provisions.

C. Employer Proposes:

Change employee contribution from \$225.00 per month to \$250.00 per month.

D. Its major rationale are: 1)Premium increase for 2010FY is 5%, if no changes are made to the plan. Premium increase for Union proposal is 7.5%. 2)Employees should pay a greater share of the health care costs. 3)All of Union's proposals are unjustified cost increases to the County.

FACT-FINDERS RECOMMENDATION:

Based on the entire Record for all the reasons stated in this Report, the **Fact-Finder** recommends that:

1. There shall be no changes to the Agreement for Insurance.

2. The Employer seek bids for ISAC health Plans, that are comparable to the County's Plan or at least offer employees a choice of plans that better fit an employee's particular circumstances.

A. A party that proposes to change an existing benefit first must prove that the circumstances have changed and that a modification of the benefit is necessary. Secondly, it must prove that its offer reasonably fulfills the needed change. Alternatively, the party may prove that it has made an offer as part of the negotiations of an equivalent quid pro quo.

B. The County is self insured for its insurance. It uses a Third Party Administrator to administer the health plan [Plan]. The health plan covers hospitalization, major medical, prescription drugs, dental, and life insurance program as per present Board policy and practice. [Plan] The Plan has an up front deductible of \$500. single and \$1,000. Family. There is an **Out-of-Pocket Maximum [OPM]** of \$1,000. single and \$2,000 Family. Additionally, there is coinsurance of 20% by employee/80% by insurer [County]. Deductibles are included in the OPMs and waived for well-child care. Coverage includes reimbursement up to \$250 for an annual physical exam per adult. Generally employees pay all office visit costs until they have used all of their deductibles. [J1,U15-19

Coverage for prescription drugs include a drug card with no separate deductible or OPMs. Employee co-pays for prescription drugs are included in the OPMs above. Employees pay nothing for generic drugs. County pays 100% of the single premium. For dependent insurance premiums, employees pay the first \$225 monthly of dependent coverage.

The County's Plan favors employees who have high cost medical needs. It discourages routine visits that might identify problems sooner or encourage preventative health care. The Fact-Finder's recommendations seek a middle ground without encouraging unnecessary office visits.

C. The Plan's Ending balance for the most recent year was \$571 thousand. It has ranged from \$526 to \$616 thousand for the past four years.[U16] This is approximately fifty percent of the annual payments for expenses.

D. The **Comparable Group** family coverage premiums vary from \$97.98 [Iowa] to \$225 [Jasper and Poweshiek]. Only Tama and Poweshiek have up front deductibles. Tama has no employee copays for medical office visits. Up front deductibles means that the employee must pay that amount in medical expenses before the employer pays anything.

Four of the Comparable Group [Marion, Iowa, Tama, and Washington] give employees a choice of plans. Office visits employee copays range from none in Tama, \$10 in Iowa to \$20-\$50 in Jasper with a flex plan reimbursement. The most common is \$20. Benton uses 20%, which goes to their OPM. Its Deductible and OPM are the same as Poweshiek. Employees in Benton pay \$160 per month premiums, no up front deductible. [U15; E4, 20-25] The complete plans of the Comparable Group are not in this Record.

E. In 2009FY Agreement [J1] the deductibles were increased from \$200/\$500 to \$500/\$1000 with corresponding changes in OPMs. That was done to maintain the employee's premium contribution at \$225. per month. [E23]

F. Only six Unit employees have family coverage and ten have single coverage, although more employees are eligible for family coverage or some coverage. Presumably these other employees have better coverage elsewhere.[E24]

G. Neither Party has proved sufficient need for its proposed changes.

H. It is time to put to rest for the foreseeable future the issue of whether or not the County's Plan is better and less costly than available insurance. The Parties have been battling about this issue since at least 2002. The County's Plan is better than the Union was willing to concede in this Record. The Union's alternative is better than the County was willing to concede in this Record.

It is time to obtain the necessary information to evaluate the differences in a more objective manner, while recognizing that the County and its employees need to obtain the lowest cost commensurate with a high quality level of medical care. This should include an analysis of the employee pool risks. The user pool needs to be large enough to share the impact of an unexpected large claim(s), or reinsurance obtained for the very high risks [Very carefully in the current economic situation]. Where are the claims and expenses arising?' and so on. Would a pretax expenses reimbursement plan fit the County's employees or so alleviate some of the cost burden shift that has occurred? I would suggest a joint committee [and this Fact-Finder dislikes committees in most instances.] from all the represented units and unrepresented employees and the management representative from the various departments gather the needed information and share it with the respective bargaining committees prior to the next negotiations.

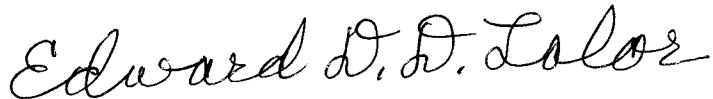
CONCLUSIONS AND COMMENTS

This Fact-Finder is reluctant to grant any wage increases in this very difficult and uncertain economic environment. However, as discussed above, this Fact-Finder is bound by Chapter 20, and consideration of the factors there supports or requires the recommendations, that are made in this Report.

I am certain that my recommendations will not represent either Party's version of an ideal resolution of this negotiating impasse.

However, this Fact Finder requests that the Parties receive and evaluate these recommendations as the careful and honest judgment of a neutral party whose overriding interest is to have this impasse resolved without arbitration. He believes that the recommendations above represent an acceptable, fair, and equitable resolution of the concerns and desires stated by the Parties. Accordingly these recommendations should be the basis for an agreement with which both sides can live.

Respectfully Submitted,



Edward D. D. Lalor, Fact Finder

Dated: February 3, 2009
Saint Cloud, Minnesota

Certificate Of Service

This Fact-Finder certifies that on the third day of February, 2009, he served the foregoing Report of Fact-Finder upon each of the Parties to this matter by mailing a copy to them at their respective addresses as shown below:

Employer

Renee Von Bokern
Bokern & Associates
2771 104th, Suite H
Des Moines, IA 50322
Tel: (515) 276-5858

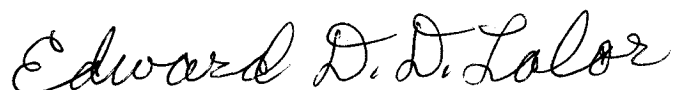
Diana Dawley, Auditor and
Tom Sheets, Sheriff
Poweshiek County Courthouse
302 East Main St.
Montezuma, IA 503__

Employee Representative or Union

Joe Rasmussen, Business Representative
PPME, Local 2003
PO Box 219
Solon, IA 52333
Dubuque, IA 52333

This Fact-Finder further certifies that on the third day of February, 2009 that he will submit this Report for filing by mailing it to the Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, IA 50319.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Edward D. D. Lalor". The signature is written in black ink and is positioned below the "Respectfully Submitted," text.

Edward D. D. Lalor, Fact-Finder

Dated: February 3, 2009
Saint Cloud, Minnesota